

7th February 1924] [Mr. T. A. Ramalinga Chettiyar]

the negotiations that are going on at the present moment. If as a result of the acceptance of this amendment I am convinced that there will be trouble I would certainly be the first to withdraw it. But the amendment is in general terms and instead of being obstructive to the negotiations it will help those very negotiations by showing that the people are likely to resent any withholding of their rights. It was also said that an enactment like this should not be spoiled by putting into it any sentiment. What is the sentiment? The sentiment expressed is not against any particular colony or person. All that it says is if there is any colony at any time which does not give rise to such a sentiment it won't be affected at all. So I beg to submit that there is nothing at all in the amendment which creates any difficulty in either of the two ways mentioned by the hon. the Leader of the House. So I hope that the amendment will commend itself to the acceptance of the entire House."

The amendment was then put to the House and carried.

1 p.m.

Clause 8 as amended was put and carried and added to the Bill.

The Preamble was put and carried and added to the Bill.

The hon. Sir CHARLES TODHUNTER :—"Sir, I now beg to move that the Bill, as amended, be passed into law."

Diwan Bahadur P. KESAVA PILLAI :—"I second it."

The motion was put and carried and the Bill was passed into law.

VII

THE MADRAS IRRIGATION BILL.

Mr. G. F. PADDISON :—"Sir, may I say a few words on this Bill? My chair here is half out and half in, and I am now speaking with permission in my individual capacity and not as a nominated Member of the Government. I beg to say a few words purely and simply as a representative of the depressed classes. The depressed classes may be divided into four kinds. The first is the hill tribes. I do not think even the eloquence of the hon. the Law Member could induce irrigation to run up-hill (laughter). I therefore exclude them. The second is the criminal tribes. My chief business is to deal with the criminal tribes. On this matter I have to point out that the uplift of the criminal tribes depends very largely on the development of irrigation facilities. There has been a strong memorandum in regard to this Bill on behalf of the Kallar community. You will find that the Kallars are divided into two classes: Keelnad Kallars and Melnad Kallars. The Keelnad Kallars have sworn that they will not go back to thieving again and have agreed to lead a peaceful life. We are striving hard by various means for their economic uplift and it is in the interests of the State that it should be done. A great difficulty is felt in this matter. If through this Bill, and it largely depends upon this Bill, we can get the extra water of Periyar river, then and not till then shall we be able to solve the Kallar problem. The Kallar representative will agree with me—I am sorry he is not here—that if we can irrigate the arid tract then immediately we can solve the Kallar problem. Then, again, there are the depressed classes called the untouchables. As you know, the Government have paid special attention to try and uplift them so that they can take

[Mr. G. F. Paddison] [7th February 1924]

their legitimate place in the social order and so that they can no longer stand as a block in the progress of the Presidency (hear, hear). Now, one of the chief ways in which we try to help these untouchables is to give them land. The difficulty is that nearly every acre of fertile land has already been taken up. There are several millions of these people and the extent of land that is available is very small. The extent of land available is also very poor in fertility. If we can get this Irrigation Bill through, I do not say as it stands, but as an Irrigation Act, then and not till then shall we be able to lift these people.

"The fourth class I wish to speak of and whom I represent to some extent is the ex-service men. I am sure the Member representing that community will agree with me that very great difficulty is felt in finding fertile lands for men who have returned from field service. You will say why should they be depressed classes? A large proportion of them find a place in His Majesty's army in Madras and they belong to the depressed classes. Until we get land and water for them we are in a very precarious condition. We can get a few arid lands in Anantapur or in Cuddapah or at the tail-end of the delta where they get water very late for no useful purpose. If those barren lands could be improved we should be able to colonise them with depressed classes of all kinds. Until we can get this Bill passed into law and get the Government of India to allot money for this purpose, it is absolutely impossible to give the lead for these classes in the Presidency. I know there is opposition. I know there was opposition, shall I say to the introduction of the first Irrigation Bill. It came very largely from zamindars. Now I want to say this, or rather I want to plead on behalf of the poor tenants throughout the Presidency, whether they belong actually to the depressed classes or not. I know the zamindars as a class will oppose this measure. I have been on intimate terms with a large number of them. Like all aristocracies they are very sensitive. They are very tenacious of their rights. They are very anxious that they should not be bullied. They resent it. I am quite certain that if we can convince these zamindars and make them see, as I have been doing during my service, that an Act of this sort is necessary so as to get money from the Government of India to go on with the different schemes, then the zamindars will realize, as most of them do realize, that a contented tenantry is the greatest asset to a zamindar. If by a new project you can get extra money, your position will be very much better than ever before. One other point has been raised, and that is, why not do this by negotiation? I noticed that several persons had it in their minds, or at the back of their minds as they will say, why not do the same with the zamindars. The answer to that seems to be that when you can get a large profit, a really large profit such as in the Kistna-Tungabhadra project, one big zamindar can hold up the whole project and spoil the thing for all time to come. So it is necessary that Government—I do not speak on behalf of Government, but I speak on my own behalf—should take these powers, get the money from the Government of India and go on with the schemes. I am sure that the finances of the Government of India are not unlimited. The persons that apply first will get the first turn. Supposing we as a House should reject this Bill, which I hope we shall not do, then all the other Provinces, Bengal, the Punjab and others, will have the preference and we may very well find the Government of India saying that we have lost many chances already. I beg you on behalf of the depressed classes and insist

7th February 1924] [Mr. G. F. Paddison]

that you should first and foremost when you go back to your constituency try and persuade every one, whether they are zamindars or ryots, that it is essential, absolutely essential, that this Bill should go in the form of an Act at once, so that we can get the necessary money from the Government of India. Then there is another objection, viz., that of an irrigation officer. My answer to that is this. My own feeling of an irrigation officer is that it is a good thing. My personal feeling is that the irrigation officer ought to have great powers and we want a large staff of highly-paid officers. If we get money, we can do it. In Guntur there was an irrigation officer twenty years ago. It was an Irrigation Officer called Mr. Pompey. He had a hot-tempered air generally. When he left, I used to say he was a terrible person. Mr. Pompey was full of power and energy. He used to ride two horses at one time. He drove one and led the other. Wherever I went, I heard 'పాంపేదొర వచ్చి ఉండినారు' in the villages.

1.15 p.m. "Then comes the question of *Kudimaramat*. Here again objection is made that whenever an urgent work is to be done all persons, and not only the labouring classes, are made to work. I do not know whether some gentlemen here who live in towns know what it means when an irrigation work is going on. When an irrigation work is going on, it is really a triumph to the villagers in general. Suppose my burning eloquence sets fire to these benches, do you think that it will not be the duty of everyone here to come to the rescue? We don't depend only on labouring classes, and so it is when an irrigation work is going on. Suppose a tank in an estate is burst; the first man who will go to the spot will be the Raja himself, and so it should be with us all whether we belong to the legal profession or to the medical profession or to any other profession. In any crisis, everyone as long as he is able-bodied should rush to the spot to do whatever he can.

"Lastly, I would just say one word to the Swarajists and those who specialize on the question of granting self-government to India immediately. I think that in this House we all agree that self-government should come in, either at once or hereafter. It is only a question of time. We all look to the time when India will have its own Dominion status (hear, hear).

"The other day one gentleman was saying—I do not wish to mention his name—that India ought to get her place among the nations of the world because she was sending her raw products to the British Empire Exhibition and not using them for manufacture at home. When I was in England I used to see the offices of the Canadian High Commissioner and the Australian High Commissioner and see their windows cramped with purely agricultural products and with purely raw material—Australian wheat and Australian wool. Does anybody mean to say that nations cannot be free by depending mainly upon agriculture? Not a bit. This is an agricultural country. Every one in this House wants to build up the nation as the practical term is and by all means we can do so."

Mr. C. RAMALINGA REDDI:—"May I ask, Sir, whether or not the Exhibition is intended partly to attract Australian and other Colonies?"

Mr. G. F. PADDISON:—"I then come to the question of emigration, about which we talked this morning. If we can get water, then the question of emigration will very largely solve itself; because the people whom I

[Mr. G. F. Paddison]

[7th February 1924]

represent form about 80 per cent of emigrants from this country. People will not want to go out if they can remain in this country and cultivate the lands in Bellary, Anantapur, Cuddapah, Kistna, Ganjam and other districts. All these lands can be brought under cultivation in about 20 years if an irrigation law is placed on the Statute Book. So, let us all have this Bill. But the first advice I want to give is this. Let us insist upon every point in the Bill that is necessary and let us pass this Bill so as to enable us to draw this necessary money from the Government of India. If we do that, I am sure we will give a tremendous benefit to the Presidency."

Diwan Bahadur M. KRISHNAN NAYAR:—"I have very great pleasure in supporting the principle of this Bill. The hon. Mr. Ramaswami Ayyar yesterday gave cogent reasons why this measure should be passed. Speaking particularly with reference to Malabar, I should say that it is highly necessary that this Bill should be passed into law. The Government, so far as I am aware, and I believe I am right, have not hitherto constructed any irrigation work in the district of Malabar. There is an idea abroad—I am afraid that that idea is entertained by the Government as well—that Malabar is a land flowing with milk and honey and that no irrigation works are necessary there. No doubt, in respect of the rains of the south-west monsoon we are more or less happy, though sometimes we have untimely rains and consequently we are not able to gather even our first crops. So far as the second crops are concerned, they often suffer for want of irrigation works. For instance, even this year, as my hon. Friend the Revenue Member has admitted in one of the answers given this morning, the second crops have failed for want of rains. If a portion of the large quantity of rain that falls in the district during the south-west monsoon could be imprisoned and collected by irrigation works and reservoirs, this calamity could be avoided. I am very glad that this Bill has been introduced and that it will be possible hereafter, if they have the will, for the Government to construct irrigation works in the district. The Bill contains many excellent provisions and it is not necessary to refer to them now. I shall only refer now to some of the salient features in the Bill which, in my opinion, should be changed in order that the Bill may become a beneficial one and if I refer to these defects in the Bill, I do so merely for the purpose of drawing the attention of my Friend, the hon. the Law Member to them and not for condemning the Bill as a whole. Section 6 declares the right of the Government to regulate the supply of water

'of any river, natural stream or natural drainage or natural drainage channel, lake or other natural collection of water, such river, stream, drainage channel, lake or other natural collection of water not being wholly situated in an estate or estates'.

"This is a very good provision. But I submit, Sir, that the same reason which has led to the exclusion of the natural collection of water wholly situated in an estate or estates should also have led the hon. Member to exclude natural collection of waters which are situated wholly in Government or patta lands. This particular objection and several other objections that I wish presently to refer to were considered by the Committee that sat over the provisions of the last draft and many suggestions were made at that time. Some of the suggestions were unanimously accepted by the Committee, some others were accepted by the majority of the members of the Committee and some others were thrown out. But to my mind, not only those that

7th February 1924] [Mr. M. Krishnan Nayar]

were unanimously accepted by the Committee but many other suggestions also ought to be embodied in this Bill. So that my present contention is that those reasons which led my hon. Friend, the Law Member, to exclude the collection of waters situated wholly in an estate or estates should have induced him to exclude natural or artificial collection of waters which are situated wholly in private lands or Government lands. That, I submit, is my first suggestion.

“Turning for a moment to another clause in the Bill, clause 17, it says that the Local Government have the power

‘to remove or close any irrigation or drainage work, change the irrigation or drainage work from which water is supplied and take any other measures they may consider necessary in order to control the distribution’

and so on. No doubt I grant that it is necessary for the Government to be armed with such powers; but care should be taken that when the Government exercises this power persons who have already been using water for their works should not be made to suffer. For instance, in changing a particular source it may happen that the particular landowner who has been getting a certain quantity of water hitherto may not be able to get the same quantity of water hereafter. The result will be that the owner of that particular field will be put to a great hardship. No doubt my Friend, the hon. Mr. Ramaswami Ayyar, may say that there is a provision in the Bill, namely clause 64, which says that in such cases as far as possible compensation in water itself will be allowed to the particular person who suffers. But I submit that by introducing such restrictions as ‘as far as possible’ and so on we shall not take away the hardship of the particular person concerned. It may be that after the removal or the change of the sources, he may not be able to get the same quantity of water which he was getting before. The result will be that he will have to suffer. So that, provision must be made for enabling the particular person concerned to get the same quantity of water as he was getting hitherto. Then again, it is stated in that very same clause, clause 17, that the Local Government may

‘take any other measures they may consider necessary in order to control the distribution and to regulate the flow of water’

and so on. This large residual power given to the Government is extremely dangerous. Ultimately who will be the person that will have to exercise this large power? It will be not the highly paid irrigation officer but it will be the subordinate officers, the persons who get only a small amount of pay, and we can more or less imagine what the consequence will be when these large powers are left in their hands. I may submit that this was also one of those provisions to which the Members of the Committee objected and I think it was unanimously objected to by the Committee.

“I come now to clause 23. It seems to me that the provision contained in this clause is a very unreasonable one. If any damage is caused to an irrigation work, if that damage benefits some particular individuals and if the authorities are not able to find out the culprit who caused such damage, then all the persons who are benefited by this damage will be punished according to this clause. That seems to me to be an extraordinary and dangerous provision. It seems to be something like this: supposing a rich man dies leaving a large extent of property and a number of relatives are benefited by the death and supposing that one of the

1-30 p.m.

[Mr. M. Krishnan Nayar] [7th February 1924]

relatives murdered that rich man and the culprit is not found out, is it fair to hang all the relatives who profit by his death because you have not been able to detect the one among them who committed the crime? It is something like the recommendation that was made by some persons with reference to the University Examination where, because one of the boys who stole the question paper was not found out, all the students who appeared for the examination were punished. I therefore say that this provision is extremely objectionable and should be deleted from the Bill.

“There is another chapter dealing with water-courses. In that chapter it is stated that owners of lands can apply to the Irrigation Officer to construct at their own expense any water-course which they desire, and the Collector will render any help that is necessary in acquiring lands for the purpose of constructing such water-courses.”

The hon. the PRESIDENT:—“If the hon. Member is going to finish in a minute or two, we shall gladly hear him.”

Diwan Bahadur M. KRISHNAN NAYAR:—“I shall continue after lunch.”

The House adjourned for lunch at 1-34 p.m.

After lunch, 2-30 p.m.

VIII

ALLOTMENT OF DAYS FOR NON-OFFICIAL BUSINESS.

The hon. the PRESIDENT:—“I have to inform the House that in addition to the six days already allotted for the transaction of non-official business, His Excellency the Governor has been pleased to allot one more day for non-official business and that naturally will be to-morrow, Friday, provided that by then the Government business has come to an end. The first 15 Resolutions which have obtained priority by ballot and of which hon. Members have received notice, will accordingly be placed on the agenda paper for to-morrow in addition to questions and answers. I may remind hon. Members that the result of the ballot held on 18th January 1924 holds good only for 30 days and that for any meeting after 18th February 1924, at which non-official business is permitted, fresh notice will have to be given in respect of motions on matters of general public interest even though they were included in the last ballot.

“Hon. Members who have evinced considerable anxiety to devote at least one day to non-official business at the present meeting will, I hope, naturally desire to co-operate with the hon. the Law Member in charge of the Irrigation Bill and bring the discussion on it to a close, as far as possible, to-day, so that we may have some time for resuming the discussion of the motion which stands in the name of the hon. Member, Mr. Peddiraju. In order to arrive at this result and at the same time to enable a large number of hon. Members to participate in the discussion before it is brought to a close, I propose to enforce the time limit which will be 10 minutes for each speech.”

VII.—THE MADRAS IRRIGATION BILL—cont.

Diwan Bahadur M. KRISHNAN NAYAR:—“When we rose for lunch I was dealing with the provisions of chapter IV. I think that some portions of this chapter contain provisions which are very hard. In this connexion, I may say that I should be very sorry if I were understood to take objection against the general principles of the Bill.

7th February 1924] [Mr. M. Krishnan Nayar]

“ Chapter IV which contains provisions enabling private owners of lands to construct water-courses at their own expense is very good. But it contains a provision, i.e., clause 35, which to my mind ought not to be there. It says :

‘ Any irrigation officer empowered in this . . . may himself construct such water-courses.’

“ This provision, I submit, should be deleted from the Bill. The object of the Government should be to collect water-cess from the persons concerned only after taking water to their fields. It is only then that the Government are entitled to collect water-cess. If Government construct a water-course of their own accord for taking water to lands, and recover the cost from the owners of such lands, I think it is quite unfair.

“ Another thing, and a very important thing, is the provision contained in chapter V, relating to water-cess. Without going into the details of the chapter, I may say that if a field is irrigated by percolation, leakage, or drainage from an irrigation channel, a water-cess can be levied from the owner of such field. That I think is a very hard provision indeed. One of my friends who is also a Member of this Council told us in the Committee that his cocoanut garden was damaged instead of being benefited by percolation and that the Government are therefore liable to pay him damages. This provision I think ought to be removed from the Bill.

“ Then again for levying water-cess, I submit that this has to be done only after obtaining the sanction of the Legislative Council.

“ It has been said on other occasions in this Council that before any resettlement is made and assessment enhanced, Government must obtain the positive sanction of the Legislative Council. I think that the levy of water-cess at a particular rate must also be made only with the positive sanction of the Legislative Council. No doubt there is provision in the Bill to the effect that rules for levying water-cess will be made and that such rules will be laid on the table of this House for a period of three months. That is an indirect provision, and I do not think it is quite sufficient. I think the provision must be made positive.

“ Then again, coming to another chapter, we find that with the special consent of the owners of fields certain terms can be arranged between the Government and the ryots by which certain rates of water-cess can be fixed for the mutual benefit of both. Provisions contained in this chapter are very nice. If the Government find that in undertaking a particular scheme of irrigation it will not be remunerative, then there are provisions enabling Government with the consent of the people concerned to fix the water-cess at a particular rate. Provisions such as these are very good. But I think that schemes costing a lakh of rupees or $1\frac{1}{2}$ lakhs should be undertaken only with the sanction of this Council, and that such a provision should be embodied in the Bill itself.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ I do not quite catch the hon. Member.”

Diwan Bahadur M. KRISHNAN NAYAR :—“ In chapter 6, section 50, dealing with the construction of new works we see that they should be approved by the Local Government, should be published in the official gazette of the district concerned, etc.; I think that it is advisable that the consent of this Council is got before proceeding with

2-45 p.m.

[Mr. M. Krishnan Nayar]

[7th February 1924]

the work. I believe this suggestion also was accepted by the committee that sat over the Bill. Schemes costing more than a lakh or so should be intimated to the Council and their sanction obtained."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Will my hon. Friend permit interruption? Chapter VI relates to works where the people's consent has been obtained for them. Assuming that the people actively consent is there still the hon. House to consider it? Is it not a case of constructive consent?"

Diwan Bahadur M. KRISHNAN NAYAR:—"There is no difference between constructive consent and express consent in the provisions of the chapter."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"The hon. Member knows what I mean by constructive consent."

Diwan Bahadur M. KRISHNAN NAYAR:—"For works undertaken under that chapter there is only one kind of consent. Even then the consent of the Council is necessary for such costly works."

"Again chapter VIII dealing with the award of compensation has got some objectionable portions. It is to be enacted that no compensation shall be awarded for any loss or damage sustained in consequence of the stoppage of a supply of water from an irrigation work when such supply has been received or derived for the first time after the passing of this Act. I submit, Sir, it is very hard."

"Suppose, Sir, after the Act comes into operation a particular field receives water from an irrigation source, say for five or ten years regularly and the owner hopes to receive it regularly for ever. With this hope he converts the dry lands into wet lands by investing a large sum of money. Suppose he has been getting gain from this for some time. Then if the supply is stopped he loses his money. To say that because he got the water for the first time only after the Act came into force, therefore he is not entitled to compensation is very hard. I don't want to go into the details."

The hon. the PRESIDENT:—"The general principles of the Bill alone should now be discussed."

Diwan Bahadur M. KRISHNAN NAYAR:—"My hon. Friend, Mr. Paddison, remarked that there was an excellent provision in the Bill regarding the emergency supply of labour. Suppose a breach takes place to an irrigation work. There is a provision in the Bill to the effect that the village headman of the locality is authorized to compel all able-bodied men to work for the repair of that irrigation work. Of course there is a further provision to the effect that they will be paid their wages. Mr. Paddison said that it is a very desirable provision. I fully agree with him in thinking that it is the duty of all of us to help in such emergent circumstances. Suppose a house is on fire, then we will all go and put it out. But there is a great difference between going voluntarily and being compelled to go, even with the hope of being paid four annas when the market rate is two annas. In Travancore, for instance, there is a huge irrigation work costing about a crore of rupees. Very often breaches occur, and the cultivators and the field owners repair these breaches at once without being compelled by anybody. Of course you have to pay the coolies on such occasions more than ordinary wages. Take again the case of the railway where breaches occur. They have also to be repaired at once. The urgency

7th February 1924] [Mr. M. Krishnan Nayar]

is equally great. I do not think, I speak subject to correction, that there is any provision by which the Railway authorities could compel able-bodied men to work there. Compelling people will certainly not do. There must be willing work.

“Finally, Sir, I would rather wish that this Bill, with all its blemishes some of which I have pointed out—there are many more—be passed into law than be rejected.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“Sir, while I congratulate the hon. the Law Member on the splendid, sweet and persuasive speech with which he introduced this Bill I fear I cannot congratulate him and the Government of which he is the spokesman on the Bill which has been introduced. For the last ten years several infructuous attempts have been made to introduce an Irrigation law in this country. In 1914 a Bill was attempted to be introduced, but as a result of a motion made that it was of a controversial nature it was put off till after the war. Last year again, the Bill which was brought forward was rejected. We have now to consider this Bill, the third of its kind. It is a matter for consideration whether this Bill is an improvement upon its predecessors of 1914 and 1922 and whether we are justified in giving our assent to the various provisions incorporated in it.

“As this is the time for discussing the important provisions of the Bill, I should in the first place suggest that the general declaration in clause 6 of the Bill is of a doubtful character. In the Statement of Objects and Reasons in introducing the Bill we are told that important provisions have been taken from the Bombay and Burma Acts. Whereas in those Acts we find provisions corresponding to clause 7, we don't find a general declaration corresponding to clause 6. Why go so far as Bombay or Burma? Let us consider the history of this Bill from its earliest stages. In 1908 when the Bill was originally introduced we found provision made for a general declaration like the one suggested. When the Bill was circulated to the Collectors, the Board of Revenue and various representative associations and individuals it received so much opposition from various quarters with the result that the question of a general declaration was omitted when it was re-drafted in 1909. I will just read one portion of the Government Order dealing with it (G.O. No. 3172 of 19th November 1909) :

‘The revised Bill does not attempt as did the earlier draft to lay down a general law of water-right for all classes of landholders. It proceeds rather on the principle, which is already familiar throughout the operation of the Land Acquisition Acts, of enabling the Government, when public interests necessitate such a step, to take control over any source or work of irrigation, paying compensation in full subject to certain definite restrictions for any material damage which may thereby result to actual, but not to prospective irrigation.’

“Consistently with the principle of the Government Order we do not find the general declaration like clause 6 in the Bill of 1909. Even in the Bill of 1914, in the pre-reform days, we do not find any general declaration of this kind though we find a declaration like clause 7. I want to say that when once we adopt an Irrigation Bill suited to the condition of this province there may be no necessity for a general declaration like the one in clause 6. I may also point out that the late Diwan Bahadur P. Rajaratna Mudaliyar, who was associated with the Irrigation Commission, as the result of whose labours the Irrigation Bill of 1914 was drafted, expressly stated that we should not in this matter take the example of the case of any other province, but should have a law which is suited to the conditions of our province. This is what he says :

[Mr. A. S. Krishna Rao Pantulu] [7th February 1924]

Page 44 of G.O. No. 3172, dated 19th November 1909.

'As a member of the Irrigation Commission, I had opportunities of observing the working of these laws in those provinces and it struck me that some of the provisions were much more stringent, or rather they were enforced much more rigorously, than the necessities of the case demanded. The conditions of this Presidency are entirely different, and the ryots and landholders have been enjoying for a long period of years immunity from undue and unnecessary restrictions in the matter of water-supply. A long series of decisions passed by the highest Judicial Tribunal of the land have practically settled the law on the subject and all that is needed is to embody the leading principles of those decisions in a Legislative enactment and prevent room for vexatious litigations on the part of private individuals.'

"I may remind the House that the general declaration which was omitted in 1909 and 1914 was introduced in the Bill of 1923 and repeated in the present one under discussion. It is of a doubtful character, and its retention is not good.

"It might be argued that there are other provisions which are sufficient to give the same powers to Government. If it be so, why then should we have this declaration? Assuming for the sake of argument that the general declaration is insisted upon, will it not do positive harm if nobody consents to such a general declaration? It is also said that this declaration of the rights of Government is based on the Easement Act.

3 p.m. "When once the Government make up their mind to have a declaration of their rights embodied in the Bill is it not fair to ask them to have a declaration of the people's rights also embodied in it, even according to the decision in 32 Madras, 141? It will be found that so far as the declaration embodied in the Bill goes, it does not give effect to all the principles which were enunciated in the decision in 32 Madras, 141. Wherever things are favourable to the Government we find declarations here; but wherever the people's rights go against the Government we do not find declarations. I will now draw the attention of the House to some of the main conclusions which were drawn by Their Lordships of the High Court in their decision; and then it will be for the House to see whether the Government have treated us properly in omitting those portions of the decision which favour the rights of the people. It will be found that the proposition placed before Their Lordships by the learned Advocate-General who presented the case was this:

'whether Government have power by the customary law of India to regulate, in the public interests, in connexion with the collection, retention and distribution of waters of rivers and streams flowing in natural channels and of waters introduced into such rivers by means of works constructed at the public expense and in the public interests for purposes of irrigation, provided that they do not thereby inflict sensible injury on other riparian owners and diminish the supply they have hitherto utilized.'

But what do we find in clause 6? We find a declaration of the rights of Government without the main qualifying clause which conferred rights on the people. That is my objection to this clause. You will find the words 'in the public interests' omitted in this clause which means that the riparian owners have got to forego their right for water."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"It is because of that, that provision for compensation has been introduced."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Even if a compensation clause has been introduced, let clause 6 set forth fully and completely not only the rights of the Government but also the rights of all persons affected, zamindari landholders, proprietary landholders, and ryotwari landholders. That is my objection to this. It will be found that the contention put

7th February 1924] [Mr. A. S. Krishna Rao Pantulu]

forward on behalf of the defendant was that the Government had a paramount or sovereign right to regulate the distribution of water for purposes of irrigation subject to the limitation mentioned, namely, that they should not injure riparian owners or diminish the supply which they have been accustomed to utilize. Another thing is that the decision practically accepts the position taken in an earlier decision, viz., 5 Madras, H.C.R. 46, wherein it was stated as follows :

‘ I quite admit that the Government of this country has at all times assumed to itself and has the right in the interests of the public to regulate the distribution for use of any portion of the water flowing in the natural channels in which rights have not as yet been acquired, and to this extent the claim of the first defendant on behalf of the Government in the 9th paragraph of his written statement cannot be gainsaid.’

“ Mark the words ‘ *rights have not as yet been acquired.*’ I need not detain the House longer because of the time-limit which has been tried to be introduced shortly before I began my speech. I ask the Government, therefore, whether it is fair for them to come forward with their declaratory rights without embodying their obligations? When they have rights, they should also have obligations. Is it fair on their part to omit to embody the obligations? That is my objection.

“ Then again you will find that this Bill is not calculated to please any of the classes of persons who are affected thereby. There are three classes of people who are affected by this Bill, the zamindari landholders, the ryotwari landholders and the ryots. You will find that this Bill is so framed as to affect the interests of all persons concerned, and all are entitled to complain against several of the main provisions of the Bill. The recommendations of the Committee were accepted only in the case of waters entirely situated in an estate. Is it a matter for congratulation or satisfaction as far as the zamindars are concerned? No. Because, the provisions of the following clause (clause 7) practically take away the benefit of the concession conferred by clause 6 for the reason that it provides that the Government can assume control over not only new works but also existing irrigation works or projects. Does it not therefore practically take away the benefit of the concession given by virtue of the previous clause? I would, therefore, submit that if it is intended that they should have the power to interfere with any *new* project for the benefit of large numbers of people, then there is no justification for the inclusion of the *existing* irrigation works or projects.

“ Sir, it will be found that apart from this clause, there are other clauses down below which will affect all these persons to a substantial extent. The next Clause, Clause 8, gives the Government power to prevent them from carrying on any improvement in respect of their irrigation works after the issue of a notification under clause 7. The moment a notification is issued they are prevented from maintaining any embankment, sluice or channel whatever. The only slight modification made is—and we must all be thankful for small mercies—that the people have been given liberty to close breaches temporarily. Important as the labours of the Committee are, that is the only concession which they have conferred upon the people by means of that new addition. It will be found that a modest amendment moved before the Committee to the effect that the words

‘ closing of breaches by such temporary measures as may be necessary for the continuance of irrigation ’

[Mr. A. S. Krishna Rao Pantulu] [7th February 1924]

should be altered into 'maintenance of any dam, weir, embankment, sluice, channel or any construction without extension,' has not been accepted by the Government. I would submit that when once you state that

'immediately after the issue of a notification no person shall commence, restore or remove or alter, etc.'

you must at least give the person concerned an opportunity to maintain his works. The insertion of this provision affects all those who have any vested interest in land. This is another grave defect which has to be removed from this Bill, if it is to be acceptable to the people.

"Again, Sir, let me draw the attention of the House to clause 10. It says :

'After the date aforesaid the Local Government may exercise in respect of the water or work referred to in section 7 all or any of the powers conferred by this Act and the liability of the landholder or owner or other person in respect of the maintenance of such water or work shall cease except as provided in section 24 and devolve on the Local Government.'

Where will the ryots stand? They cannot enforce their rights on the landlord. They cannot enforce their rights on the Government. What will be their fate? In the Committee a very reasonable amendment was moved and accepted. It was in these words :

'that the Government shall bear the liability in respect of the maintenance of such water or work and the liability of the landholder or owner or other person shall cease except as provided in section 24.'

If the Government would at least say that they will bear the liability in lieu of the landholder that will be a reasonable position. That has not been done.

"There is yet another important point. We find in clause 56 dealing with compensation, that provision is made in clause (b) for paying no compensation for

'the stoppage or diminution of a supply of water for irrigation to any Government land registered as wet in public accounts when such land has not been irrigated at any time within five years immediately preceding such stoppage or diminution.'

Even in respect of this provision, I would point out that this limitation of five years is unnecessary. So far as wet land is concerned, they are lands registered as wet. This limitation is not to be found in the earlier Bills. There was a restriction in the Bill of 1908. Since it was found to be hard on the ryots, it was removed altogether from the Bill of 1909. In the Bill of 1914 you would find provision for payment of compensation for wet lands irrigated within five years. It is only when you come to last year's Bill, you find this limitation as regards wet lands. I submit that there is no justification for this provision at all. In the case of dry lands there is no compensation provided at all. Our friends who worked in the Committee were good enough to raise this point saying that subject to the limitation of ten years there ought to be compensation provided for. Notwithstanding their efforts you find that that also has not been accepted by the Government. In the Bill of 1909, provision was made for compensation for dry lands cultivated during the years, subject to certain limitations. I would submit that some of these main points which I have urged are enough to show that this Bill is defective in various particulars. For want of time I cannot point out the other defects in the Bill. For instance there is much to be said against the powers conferred on the irrigation officers.

7th February 1924] [Mr. A. S. Krishna Rao Pantulu]

"It will be found that the provision regarding the water-cess is objectionable and it cannot be accepted as it is. It is likely to cause irritation in the country. The words 'leakage, and percolation' are bound to cause irritation. A proposal was made in the Committee that rules made for the water-cess should be approved by the Legislative Council. In place of that, we have a statement here that it should be placed before the Legislative Council while in session. It does not mean that the rules will not come into force until they are approved by the Council. What satisfaction is it to us if we are simply to be informed of those rules if we are not to be given an opportunity to accept them? What the Committee insisted upon was that these rules should have the sanction of the Legislative Council and the Committee recommended it. But the Government did not accept it. Therefore, I must say that the present Bill contains all the objectionable features of the old Bill. Therefore, it is not without some feeling of reluctance that I have made up my mind to support the First Reading of this Bill. Though the reasons I have given are such as might induce some persons to reject the motion, I have deliberately come to the conclusion that I must support the motion. My hon. Friend the Law Member in presenting this Bill told us clearly that he is not wedded to any of the provisions in the Bill. He told us frankly and clearly that it may be treated as a picture which has to be improved upon. With that assurance from him I hope that this Bill can be improved upon. On the other hand if he was dogmatic in the beginning saying 'these and these are the principles from which the Government cannot depart' I would have been one of those who would reject the Bill. When the person responsible for the Bill says that it could be freely improved upon, I do not think we are justified in voting for its rejection.

"Again, let me remind the House that our chief complaint has been that the Government have been neglecting works of irrigation. We have been, in season and out of season saying that the Government are not giving sufficient facilities for irrigation; and their reply now has been that they have not been successful in passing a law which enables the construction of new irrigation projects. Shall we give them that chance or not, is the plain question before us now. If we really agree that the country would prosper by the development of irrigation, if we really think that there is something to be said in favour of the difficulties pointed out by the Government that the Government of India would not give them any pecuniary help unless the Irrigation law is pushed through, we ought to agree to the passing of this measure. We should facilitate the Government going forward with their irrigation schemes. I do not say so simply because the hon. the Law Member has suggested that the Bill might be improved upon by the House.

"I do not want the House to do anything on his mere assurance, because so often it happens that we have to take care that we rely only upon improving the provisions of the Bill itself. If our attempts in the Select Committee and in the Council to have the Bill modified in the form acceptable to us fail, the remedy is in our own hands; because even after further discussion during the Second Reading it is open to the Council to reject the whole Bill, even though it may be allowed to pass the First Reading and even after the Bill is threshed out in the Select Committee. If even after all these processes we still feel that this Bill is of no use whatever and that it would curtail the privileges of all persons

3-15 p.m.

[Mr. A. S. Krishna Rao Pantulu] [7th February 1924]

concerned, we will really be within our rights to reject the Bill when it comes to the stage of the Third Reading, and a motion is made that the Bill be passed into law. Therefore I support this motion."

Mr. S. SATYAMURTI :—" Mr. President, Sir, I have listened to the hon. the Law Member's very impassioned and very earnest,---I do not say eloquent because now after coming to this House I have come to know eloquence is a crime---speech, in making the motion that the Bill be read in Council. But I cannot say that he gave any reasons which convince me---and I feel which will convince many others at least on this side of the House---that this reading ought to be permitted at this stage. Let us now examine the arguments that he advanced. Before I do so, I must be allowed, and I hope I shall be, to enter my humble protest against the somewhat uncharitable and unchivalrous attack which my hon. Friend, the Law Member, if he would allow me to say so, made on the Swarajist programme and party. Sir, I am pledged to obstruct and to hold up all Government business, unless and until the Government yield to the reasonable demands of the people. Though unfortunately our number here is not very very large, but still, when it is, the Swarajya party will hold up every business of the Government. It will hold up not one Irrigation Bill but a thousand Irrigation Bills. It will hold up not one grant but a thousand grants until the Government grant Swaraj. For I am convinced that Irrigation Bills can wait but Swaraj cannot. That is the only argument which I have got to give in answer to the somewhat, may I say, unchivalrous attack on the Swarajist programme made by the hon. the Law Member. I can understand and realize my hon. Friend, Mr. Veerian's attack, but I was not prepared for the hon. the Law Member's attack. I want to say this that we, who are here, representing large constituencies, are at a great disadvantage in offering responsible criticisms on this Bill. Within the last three days have been piled on our devoted heads reports after reports, papers after papers, and with the best will in the world I have not been able to go through them and much less digest them. And I must ask the hon. the Law Member to place himself in our position and not that of a Member of Government. He will then realize our difficulty, he having come in contact with many Bills. He is an expert lawyer and has been studying these various provisions for some time. But here I am ; I have not been able to read the Committee's recommendations and I sat here with amusement listening to the powerful arguments of Mr. Krishna Rao and Mr. Krishnan Nayar. I thought they were going to oppose this motion, but each ended his speech by supporting it. I do not want to come between them and their logic, but I may tell the House that it is somewhat amusing to us to be told that Committees have made recommendations but yet they have not been accepted, and yet the Members of the Committee said that the Bill must be supported. The House can further understand our great difficulty. We are not able to see what recommendations were made by the Committee, why they were made, what recommendations of the Committee were accepted, why they were accepted ; what recommendations were not accepted and why they were not accepted. Therefore, we are in a very difficult position. And speaking of the elected Members of this House---I mean no slur on the nominated Members, for they are not responsible to any electorates as they do not exist now---so far as we are concerned, we have got to consult our electorates,

7th February 1924]

[Mr. S. Satyamurti]

and we are here representing the views of our electors and not our own opinions *ex cathedra*, on matters of very vital importance affecting the lives and well-being of thousands and hundreds of thousands of our fellow-subjects throughout the whole of this Presidency. I, therefore, think that it would be fair if this matter is allowed to lie over pending their decision.

“Let me now state such objections and give such answers as I can, within the limited time given to me for speaking in connexion with this motion. The first argument of the hon. the Law Member was that there would be no money until the necessary legislation was passed, and he used very picturesque language, very exaggerated language and painted to us pictures of the Garden of Eden spreading itself in the famine-affected dry Ceded Districts and said that in regard to places like some taluks of the Tanjore district there would be life-giving waters flowing. My mouth watered, for I also hold some land in those parts, and I thought that the moment the Irrigation Bill is passed, there would be life-giving waters flowing. But, Sir, I know the ways of the Government of India, and so does the hon. the Law Member and unless the moving eloquence—I am sorry to use any word which my

The hon. Mr. C. P. RAMASWAMI AYYAR :—“I for one do not regard it as specially uncomplimentary, Sir.”

Mr. S. SATYAMURTI :—“I am very glad to have that assurance, and I feel a little more strengthened to speak here as I am used to speak elsewhere. Unless he is able to change the century-old ways of the Government of India, I do not expect that because you introduce this Bill—you do not pass it, mind you—after this very careful, very conciliatory and very well-considered speech of the hon. the Law Member calculated to buy off or conciliate all opposition, in which he says: ‘I am not committed to anything under the Sun except an Irrigation law and some control and therefore accept the Bill’—I do not think the Government of India are such simpletons as to say that because we introduced a Bill therefore they will be ready to give money. . . .”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“The Government of India are not simpletons. They have, and I know they have in this matter the interests of this Presidency at heart, as much as we have.”

Mr. S. SATYAMURTI :—“That is what I was leading to. If the Government of India have the interests of this Presidency at heart, if they knew the sufferings in our districts, they would not have awaited for an Irrigation Law to be passed to sanction this money, and if the Government of Madras would stand up like a man before the Government of India and say ‘No Irrigation Law until money is given’, then this Council will support them in their attitude. But it is because the Government of Madras have always surrendered themselves to the Government of India and do not stand up as a man, that we are being fleeced to the extent of $3\frac{1}{2}$ crores year after year. And the Government are again giving them the answer ‘Whatever you dictate, you may dictate and we will not oppose you.’ I do therefore think that the argument that because the Government of India are going to give us $2\frac{1}{2}$ crores the moment we introduce some Bill, will certainly not convince any one in this House. The hon. the Law Member said—and I took notes of his speech—that the Government is anxious to introduce some legislation to control irrigation. If he had made a proposition like this, namely,

[Mr. S. Satyamurti]

[7th February 1924]

that this House do now agree for legislating for some control of irrigation, personally I would not have had much to say against it. But after having said that"

The hon. Mr. O. P. RAMASWAMI AYYAR:—"I am sorry to take up the very little time that is available to my hon. Friend. What I said was that the Government is pledged to this formula, that we must have an Irrigation Law so as to secure to Government such power of control over the water made available for irrigation at public expense as would enable it to make the best possible distribution of the supplies and prevent embarrassing litigation."

Mr. S. SATYAMURTI:—"So he did. But later on in his peroration when he was appealing to the Members of this House"

The hon. Mr. C. P. RAMASWAMI AYYAR:—"My hon. Friend knows better than myself what value to attach to perorations."

Mr. S. SATYAMURTI:—"I attach much greater importance to his perorations than the hon. the Law Member does to his own. Anyhow, I want to say this, that after the House listened to his peroration, I ask him not to expect anything except this, namely, some legislation for irrigation. But he says 'Vote for this Bill of 101 clauses which contains various provisions' and various defects. That is exactly where our difficulty comes in. Then, we come to that hard nut which the Government have found it very difficult to crack, namely, the permanent settlement. The hon. the Law Member said 'We are not going to disturb the permanent settlement'. I am not one of those who believe that the permanent settlement is a part of the Vedas or of the Bible or of the Koran. I think that when Swaraj comes to this country, the zamindars must accept the terms of the Swaraj Government and that they, the few, should not have any rights as against the many. But for the present when the Government of this country is a foreign Bureaucracy and a Military camp, what guarantee is there that the money which is being spent by the zamindars in this country when once transferred to the Government will be spent even in this country? I therefore do not think that there is any danger at present of the zamindars being deprived of their rights. On this matter the zamindars can well take care of themselves. We know that some of them have remained neutral and others are in opposition, and therefore they know their interests better than we do. I am speaking only on behalf of the ryotwari landholders, and I want this House to know that this Bill affects ryotwari rights, ryotwari interests, as much as it affects zamindari interests, if not more. A red-herring has been drawn across the discussion on this Bill throughout, and it is somewhat overdone, that the holiness is on the side of the Government and the unholiness is on the side of the zamindars, and we naturally must take the side of the holy ones. My contention is that the subsequent chapters of the Bill and the definition clauses also affect ryotwari proprietors. It also affects the zamindari proprietors, and it has been stated that such changes as have been made in the present Bill have been made in favour of the zamindars. That is no reason why this Bill should go down the throat of this House. The provisions of this Bill may go down the throats of the zamindars."

"The first major criticism which I want to make on this Bill is this. The Bill makes no mention of riparian rights at all. The hon. the Law

7th February 1924]

[Mr. S. Satyamurti]

Member is too much of a lawyer not to recognize that even ryotwari landholders and proprietors have got riparian rights, natural rights which no State ought to confiscate. And yet there is no provision in any of the various sections in this Bill for the protection of these riparian rights. Then, Sir, my hon. Friend, Mr. Krishna Rao, has already referred to the empty provision regarding Rules being made and laid on the table of this House. I want the hon. the Law Member to state whether this is merely an empty formality or may mean an active or passive consent of this House. So far as I can see at present, the Rules are there and none of us takes any notice of them, and if any one does take notice of them, no notice is taken by others of his notice. And thereafter the Rules go forward. Then, we have had a lecture from Mr. Paddison. I am not against any man going or being asked to go or do any such customary labour as was referred to by him, but after having practically destroyed the communal life of the village, after having made the village headman, not the respected member and leader of the village community, but the hireling of a Bureaucratic Government, and in these days of easy communication, when labour can be had at market rates in almost any place in the country, there is no reason for this antideluvian provision being enacted into law. Well, Sir, we have got various sections about which the hon. the Law Member says so much, e.g., sections 45 to 53 relating to the construction and maintenance of irrigation works on special terms. Therein you have got this provision, namely, 'No objection shall be taken to the rate of water-cess nor shall the liability of any person to pay the cess be questioned in any civil court.' Now, Sir, after having taken away this remedy from the jurisdiction of the civil courts of the country, in very important matters the Irrigation officer is given powers which may very easily be abused.

3-30 p.m. "If the hon. the Law Member will recall his own non-official days, he will remember that it is perfectly easy for the officers of Government, and especially for those in the lower grades, to exceed the limits of the law and cause harassment to the people under their control. I think that even in this Bill itself the Irrigation officers are given such great powers over all the waters in the land, that I have not the least doubt in my mind that unless the political conscience of my countrymen is thoroughly aroused in the meantime, the Irrigation officer will dominate the polling booth in the next election. I have no doubt in my mind that if this Bill goes forth, the ryots will be very much at the mercy of the Irrigation officers, their lascars and their maistris, and I do not think that the hon. the Law Member himself wants to produce that effect."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Certainly not."

Mr. S. SATYAMURTI:—"I am only asking him, Sir, to consider whether the spirit which is calculated to be developed in these petty officials with these extraordinary powers vested in them is not opposed to the development of democracy in which the hon. the Law Member is, I hope, as much interested as any one of us here."

"Then, Sir, there is only one section which I want to read so as to convince this House what radical changes this Bill is making in existing rights. Section 17 says:

'The Local Government may, after publishing a notice to that effect construct, repair, modify, remove or close any irrigation or

[Mr. S. Satyamurti]

[7th February 1924]

drainage work, change the irrigation or drainage work from which water is supplied and take any other measures they may consider necessary in order to control the distribution and to regulate the flow of water from any irrigation or drainage work.'

"And then, clause (3) says :

'No right to receive a supply of water from any particular irrigation work shall debar Government from exercising all or any of the powers conferred by this section.'

"Therefore, Sir, that takes away the right which people otherwise have for the purpose of taking water.

"Then we have got section 64 which says :

'Whenever in the exercise of the powers conferred by this Act the supply of water to any person is stopped or diminished under circumstances entitling him to compensation under section 56, the Local Government shall, with the consent of the person so entitled and subject to such conditions as may be agreed upon, confer on him, in lieu of or as part of such compensation, a right to a supply of water from any irrigation or drainage work, unless such supply is in the opinion of the Local Government impracticable or the cost of such supply would exceed the amount of compensation payable.'

"But, Sir, if we turn to section 56, we will find :—

'No compensation shall be awarded for any loss or damage sustained in consequence of—

(a) the stoppage or diminution of a supply of water from an irrigation work when such supply has been received or derived for the first time after the passing of this Act.'

"I thought, Sir, that one of the most earnest pleas which the hon. the Law Member put forward in favour of this Bill was that if this Act is passed there would be such a number of fresh sources of water-supply, such an extent of land irrigated, and such new sources of irrigation, that people would take advantage of this. But what becomes of that, I ask, when Government, by a stroke of the pen, deprive them of that right and say into the bargain : 'You shall have no compensation whatever because you are entitled to the water only after the passing of this Act?'

"The one other clause I want to refer to, and that briefly, is this : My hon. Friend, the Law Member, assured me and assured this House, yesterday morning, that he also was a lawyer. I knew that, and I know that. But, may I appeal to his legal conscience to say whether it is right that under the numerous sections of the Bill, viz., 23, 36, 37, 44, 53, 59, 76, 79 and 90, he should take away the jurisdiction of the civil courts and empower the executive officers of the Government with these great powers? The hon. Member used the phrase 'embarrassing litigation'. Yes, so it is. But after all, until humanity finds out another means of ascertaining and asserting people's rights, I suggest that an appeal to the highest tribunals of the land is the only legitimate, is the only normal, and is the only proper means of ascertaining and asserting such rights."

The hon. Mr. C. P. RAMASWAMI AYYAR :—"The phrase is of the Government of India."

7th February 1924]

Mr. S. SATYAMURTI :—“ But that does not excuse this legislation.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ That does excuse me.”

Mr. S. SATYAMURTI :—“ Anyhow, I hope when the official report comes, the hon. the Law Member will mark this phrase in inverted commas. After having ousted the jurisdiction of the civil courts, the hon. the Law Member cannot say that the powers of the courts have been preserved. But he said that the powers of the courts have been preserved. Yes, in a most truncated form. But in any case, it does not affect the zamindar vitally. They are willing to give the zamindars the right to litigate for their pleasure in courts.

“ Again, this Bill is a taxation measure. Whatever Government may say, this is a taxation measure. They are not going to adopt the recommendations of the Joint Committee but are giving the Executive Government a right to levy a water-cess at their sweet will and pleasure, and also to increase the settlement rates, not because the ryot takes any more water, but because an irrigation officer takes it into his head to classify a particular irrigation source as belonging to a higher class. We are asked to give our assent to this Bill and we are bound at least to give to the hon. the Law Member the views which we hold on the various sections of the Bill. The hon. the Law Member said that this Bill gives effect only to the decisions of the High Court. If this Bill only gives effect to the decisions of the High Court, then why this Bill? I have heard, Sir, that legislation is passed usually only when courts have left matters in doubt, or when the decisions are not beneficial either to the interests of the State or the people. If, as a matter of fact, you are merely giving effect to the decisions of the highest tribunals, then I submit there is no need at all for any legislation.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ That expression was used in regard to the mutual relations and obligations between the Government and the zamindars.”

Mr. S. SATYAMURTI :—“ So, I take it, Sir, that with regard to the Government and the ryots, the Government do propose to make radical changes in the relations which now exist between them. I do hope that representatives of ryotwari interests present in this House will take note of the fact that, while as regards zamindars they are merely giving effect to the existing rights, as regards the humbler folk, the ryotwari proprietors, they want to put new fetters upon them.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ I did not say so.”

Mr. S. SATYAMURTI :—“ Of course, I did not say that the hon. Member did. Again, the Government with one stroke of the pen, although I must say that the hon. the Law Member rather hesitated in saying so, say that all that which is not zamindari land, or inam land, is Government land. One of the most difficult and complex problems which have been taxing the brains of most eminent men all over the world is as regards the rightful ownership of the land, whether it is the property of the State or belongs to the people; and the hon. the Law Member says that all lands, excepting inam lands or zamindari lands, are Government lands. I do not think that we should allow such a contention to go forward. The hon. the Law Member says that Government are not bound to maintain irrigation works in a state of repair. An eminent Judge of the Madras High Court, whose

[Mr. S. Satyamurti]

[7th February 1924]

authority the hon. the Law Member himself recognises quite as much as I do, Justice Sir S. Subramania Ayyar, says in 28 Madras at page 72 that 'the duty of the Government to maintain irrigation works is imperative as opposed to permissive obligation.' But, while the Government may do anything, yet no ryot can get compensation because Government have omitted to keep these irrigation works in repair. Let me say this, that, although I belong to the Swarajists' camp pledged to oppose all Bills of this kind, I have examined this Bill with the utmost care, and I find that this Bill, apart from the assurance given by the hon. the Law Member in his picturesque language that once we agree to this Bill, whatever our opinions may be with regard to its provisions, it is surely going to give us life-giving waters flowing even in the desolate darknesses of the Madras Presidency"

The hon. Mr. C. P. RAMASWAMI AYYAR:—"I might have said that, but I said so for the obvious reason that irrigation works are not constructed overnight."

Mr. S. SATYAMURTI:—"I can judge the difference between to-morrow and the day after, Sir, but I am only suggesting that the temptation which the hon. the Law Member placed before this House was that, whatever our objections may be with regard to the provisions of this Bill, we must agree to it because in that case in 15 or 20 years there is going to be water flowing in all the fields in the Madras Presidency. Well, Sir, that is a consummation which we all devoutly wish for, but what I say is that even such a consummation ought not to be purchased at the sacrifice of the valued liberties and privileges of the people, and we ought not to commit ourselves blindfold to a Bill about whose provisions the hon. the Law Member is not sufficiently cautious, about the beneficial effects of which we are rather dubious, and about whose provisions, last but not least, we the elected members and others have not yet had sufficient time to consider and bring forward reasoned, useful and effective criticisms, as representing the opinion not only of ourselves, but also of those whom we represent. I, therefore, venture to appeal in all humility to this House, in spite of the impassioned eloquence of the hon. the Law Member, to reject this Bill and leave the Government to bring forward another Bill, if they choose later on. Do not be deceived, I say, by the assurance of language. With the Government holding out all reasonable assurances, this Council turned down by a large majority Sir K. Srinivasa Ayyangar's Bill. Therefore, Government were anxious to placate opinion. With that object in view, they appointed a Committee. That Committee made several recommendations. Government accepted very few of them, but turned down all the others. Therefore, are they going to show a more reasonable frame of mind when we pass the first reading of the Bill and when it comes on to the House again for its second reading? No. I know the ways of the Government, and I would appeal to the House to take time by the forelock and tell the hon. the Law Member "No, Thank You; we will not allow this Bill to go forward."

Dr. P. SUBBARAYAN:—"Mr. President, I must congratulate the hon. the Law Member on the very conciliatory speech he made, but I do not think with all that he has convinced the class that I represent that the Bill in any way gives them the advantage that they thought it would after it had been considered by the Committee. As the hon. Member himself said, the case for the landholders was very ably put forward by Mr. Venkataranga

7th February 1924] [Dr. P. Subbarayan]

Rao and by my hon. Friend Mr. Narasimha Raju. They fought every clause of the Bill, especially in Chapter II, at every step, but I do not think the impress of that fight has been left in the Bill that has been presented to the Council to-day. The hon. Law Member might play upon the words 'all rivers and streams wholly situated in an estate or estates' which are put forward in clause 6. As has been pointed out by my hon. Friend Mr. A. S. Krishna Rao, the effect of that clause has been taken away by what has been introduced in clause 7 wherein Government reserve power to themselves by the mere issue of an order even to take control over streams lying wholly within an estate. So, what they give with one hand in clause 6, they take away with the other in clause 7.

"I was sorry, Sir, that my hon. Friend Mr. Satyamurti chose to attack the class that I represent in this Council in the way he did. I do not think he in any way makes Swaraj come nearer by attacking the class that I represent. If Swaraj is going to be really like the one he said it would be, certainly I for one and the class which he chose to attack will be very thankful if the old Government remained with its Executive Council and its idea of fairplay and justice, but I know it is not going to be that as I think the hon. Member's opinion is rather the exception than the rule. If my hon. Friend had for one moment thought of what the zamindars are suffering under, I do not think he would have made the statement which he did. I shall present this to him if he is unaware of it. I can quote cases of zamindaris in this Presidency where they are paying as *peshkash* nearly half their income. I should like to ask my hon. Friend this question: 'Is there a single ryotwari landholder in this Presidency who is paying nearly half his income to the Government?'"

MR. S. SATYAMURTI:—"Oh yes, and more."

DR. P. SUBBARAYAN:—"I should like also to make a present of this observation to my learned Friend, the Member for the University. The zamindaris have no doubt rights, but they also have duties which they owe to their ryots, and if my hon. Friend chooses to tour round some of the zamindaris in this Presidency, he will find that the ryots under the zamindars live a contented and happy life."

MR. S. SATYAMURTI:—"I would only ask one question, Sir. What about the innumerable suits under the Estates Land Act which we hear so much about in these well-conducted zamindaris?"

DR. P. SUBBARAYAN:—"My hon. Friend has entirely misunderstood my statement. There are zamindars and zamindars. I said there are zamindaris in this Presidency where only if my hon. Friend will take care to tour round, he will find that the tenants have no suits under the Estates Land Act. I am not boasting myself. It is now eleven years since I took charge and there has not been a single suit under the Estates Land Act in my zamindari (hear, hear and applause), and I think there are other zamindars as well who can lay claim to the same statement that I have made."

"I should like also to say this in connexion with the main provisions of the Bill. As my hon. Friend Mr. Satyamurti himself pointed out, there are many clauses in the Bill under which the jurisdiction of the courts has been taken away. I should like in this connexion to point out to the hon. the Law Member an article which was written in the 'Quarterly

[Mr. S. Satyamurti]

[7th February 1924]

drainage work, change the irrigation or drainage work from which water is supplied and take any other measures they may consider necessary in order to control the distribution and to regulate the flow of water from any irrigation or drainage work.'

"And then, clause (3) says :

'No right to receive a supply of water from any particular irrigation work shall debar Government from exercising all or any of the powers conferred by this section.'

"Therefore, Sir, that takes away the right which people otherwise have for the purpose of taking water.

"Then we have got section 64 which says :

'Whenever in the exercise of the powers conferred by this Act the supply of water to any person is stopped or diminished under circumstances entitling him to compensation under section 56, the Local Government shall, with the consent of the person so entitled and subject to such conditions as may be agreed upon, confer on him, in lieu of or as part of such compensation, a right to a supply of water from any irrigation or drainage work, unless such supply is in the opinion of the Local Government impracticable or the cost of such supply would exceed the amount of compensation payable.'

"But, Sir, if we turn to section 56, we will find :—

'No compensation shall be awarded for any loss or damage sustained in consequence of—

(a) the stoppage or diminution of a supply of water from an irrigation work when such supply has been received or derived for the first time after the passing of this Act.'

"I thought, Sir, that one of the most earnest pleas which the hon. the Law Member put forward in favour of this Bill was that if this Act is passed there would be such a number of fresh sources of water-supply, such an extent of land irrigated, and such new sources of irrigation, that people would take advantage of this. But what becomes of that, I ask, when Government, by a stroke of the pen, deprive them of that right and say into the bargain : 'You shall have no compensation whatever because you are entitled to the water only after the passing of this Act?'

"The one other clause I want to refer to, and that briefly, is this : My hon. Friend, the Law Member, assured me and assured this House, yesterday morning, that he also was a lawyer. I knew that, and I know that. But, may I appeal to his legal conscience to say whether it is right that under the numerous sections of the Bill, viz., 23, 36, 37, 44, 53, 59, 76, 79 and 90, he should take away the jurisdiction of the civil courts and empower the executive officers of the Government with these great powers? The hon. Member used the phrase 'embarrassing litigation'. Yes, so it is. But after all, until humanity finds out another means of ascertaining and asserting people's rights, I suggest that an appeal to the highest tribunals of the land is the only legitimate, is the only normal, and is the only proper means of ascertaining and asserting such rights."

The hon. Mr. C. P. RAMASWAMI AYYAR :—"The phrase is of the Government of India."

7th February 1924] [Sir K. Venkatarreddi Nayudu]

Irrigation Bill. I do not attach much value on that ground, for this reason, Sir. The subject of irrigation had been in the hands of the Government of India for nearly fifteen or twenty years before the Reforms during which period they were not able to do anything for us. As early as 1900 or 1902, when the Irrigation Committee submitted its report, certain schemes amounting to something like Rs. 15 crores have been enunciated and recommended to the Government of India. At the same time an equal number of schemes costing about an equal amount were recommended in the provinces of the Punjab and the United Provinces. What do we find? Twenty years after this, we find that, while the Government of India have spent nearly all that was required to be spent in the United Provinces and in the Punjab, they did not spend even a crore of rupees in this province. Probably those that were nearer the seat of the throne were able to influence the Government of India. All we can say is that we have to stand on our own legs—and I am prepared to stand on my own legs. When it is suggested that the want of an Irrigation law is the only reason for delaying all our great schemes, I think we ought to support such a law as that, and I rather think that it is too late in the day to say that an Irrigation law is a necessity for us.

“ That does not mean that this is the Bill that is wanted. But for the assurance the hon. the Law Member has given that he is keeping an open mind on almost every item in the Bill, many of us would have probably voted for that Resolution which was thrown out yesterday, namely, the motion for giving more time for this Bill. Well, Sir, whatever that may be, the present Bill requires enormous perspective. One first criticism which I must advance is that the Bill appears from beginning to end as one which secures some rights to the Government. No objection to that. But they should not at the same time forget their obligations towards the people. As was said by my hon. Friend, Mr. Krishna Rao, Sir, in the older Bills, Bills introduced in Northern India, in the Punjab, Bombay, Burma and United Provinces, there has always been a chapter on drainage. There is no such chapter in this Bill. If the voluminous pages of evidence recorded before the Irrigation Commission were perused, it would have been noticed that several witnesses, especially the Superintending Engineer from the Gōdāvari district, clearly indicated that the system cannot be a success until a scheme for drainage is properly worked out. To this day this Government as well as the Government of India have neglected the drainage systems of the Godavari and Kistna districts, with the result that we have not been able to progress as we should have been able to progress. That is one criticism.

“ Reference has also been made to the obligation of the Government to repair and to pay compensation, where, by their action or by their negligence, injury might accrue to the people. Apart from these, it would not perhaps be possible within the limited time at our disposal to go into details. But I wish that the eloquence of my hon. Friend, Mr. Satyamurti, had been devoted a little more largely on that question with regard to the definition of the words ‘Government land.’ Well, Sir, that is a question which disposes of, if I may say so, with one stroke of the pen, the solution of that vexed question, whether the land revenue in this country is a tax or a rent. That great ingenious fertile brain of the great Viceroy of India, whose genius and whose activity ransacked all the departments

[Sir K. Venkatarreddi Nayudu] [7th February 1924]

of the Governments, not only of his own but of his provinces as well, and made researches in the laws from the ancient monuments and after all produced that book called the 'Indian Land Revenue Policy', even that statesman could not solve that question. And what do we find, Sir? The Madras Government in one single sentence by way of definition have taken away that which is dearest to the ryots of this land. I say, Sir, the Government in this country have no land of their own, ('hear, hear') except what is purchased by them. If the land is yours, why should the question of compensation come in? You say you will pay not merely the price of the land but something more—50 per cent more for the land to be compensated. It is not only that. I am sorry there is no time to go into the whole question, but I will just refer to the rulings of the High Court and of the Privy Council in which it has been definitely held that the land belongs to the ryots and not to the Government. Those of us that are acquainted with conveyances in our own land know, Sir, that even in the most ancient documents we find terms which invariably lead to the only one inference, namely, that the proprietary right of the soil vests in the ryot and not in the Government. తరుజలపా పాణము, i.e., water, trees, mines are all conveyed in the ordinary conveyances, and now to be told, in the year of Grace 1924, after one hundred and fifty years of benign British rule, after the decisions of so many courts, that the land belongs to the Government at one stroke and that everything is Government land is something startling and extraordinary. Now, Sir, I hope it will not be taken as a threat, but it is an honest conviction and an expression of honest opinion when I say that unless the hon. Member in charge is prepared to say that he will take away that provision whether it be in the Select Committee or at a later stage, unless he gives me that assurance, I must say that I cannot give my assent to the reading of this Bill."

The hon. Mr. C. P. RAMASWAMI AYYAR :—"This definition of Government land was embodied in the Survey Act which was recently passed, and I do not think any objection was taken then."

Mr. M. RATNASWAMI :—"May I ask whether Government land means anything else than land belonging to Government?" (laughter).

Mr. S. SATYAMURTI :—"May I ask what it does mean?" (laughter).

Mr. M. RATNASWAMI :—"I am asking a question to be answered, Sir."

Rai Bahadur Sir K. VENKATAREDDI NAYUDU :—"At any rate, that is the way in which I understood the wording there, that every land in this country, except land within the ambit of a zamindari, ryotwari or inam, is declared to be Government land. That, I submit, is an extraordinary proposition which will lead to great injury to the people. Not because it is so declared, Sir, but the thin end of the wedge has been introduced, simply by way of a definition. I can understand why definitions are used; they are used for words occurring very often in the Act; the repetition of a number of words may take up space and time, and in order to save that, definitions are put in. When I examined this Bill, I find these words 'Government land' have been used only in half a dozen clauses. I have not unfortunately the time enough to refer to all those clauses. But I will just run through and tell you what those clauses are. They are clauses 4 (10), 11 (d), 12 (2) (b) (vi), 12 (2) (d), 24, 42 (1) (a) and 56 (2) (b). Now, what difficulty is there to use

7th February 1924] [Sir K. Venkatarreddi Nayudu]

an expression which is clear in those few places? Why use this language? Well, Sir, to put forward in this Bill such an expression, to put forward such a thing in this Council, which I take it represents and contains representatives from various districts, representatives who have been returned by a number of ryotwari voters is something startling, and I wonder if any one would venture to say that he would subscribe to such a dangerous proposition as that. Now, take the case of this one clause—clause 6 in the second Chapter—which deals with the powers taken by Government in order to secure control over water sources. I will not in the least object to that. It is absolutely necessary in the interests of the country and for the discharge of the duties which the State owes to the country. These duties relate to promoting and extending irrigation works which would naturally result in the prosperity of the country. Now, I am perfectly agreed with that. But, Sir, the powers are so quietly, so vaguely, and so sweetly vaguely, taken that there is no knowing where those powers will end. Just take that clause, Sir. I am sorry I have no time to go into details.

4 p.m. “Suppose to-morrow on the ground, for instance, that the sand of the Godavari is being silted up at the top, or on the ground that at present it irrigates only a lakh of acres, I only quote the figures approximately, let us say that it benefits some 15 lakhs of people and water is blocked up or banded up; the whole stream of Godavari may be diverted to another district say the Kistna, Guntur or Nellore, and so on and they can say that it is likely to irrigate a larger area, that it is likely to yield larger crops and benefit the largest number of people. When such a thing is done what is there that is provided here? Objections may be submitted and of course they will be coming up and disposed of. But, Sir, when such important schemes as this are put forward, I think it must be the duty of the Government to intimate this House and to place such schemes on the table of this House and obtain the sanction of the House. Because, it is after all those who are entrusted with the safety of the people that have to safeguard the interests of the ryots. I would suggest, Sir, that any scheme involving more than say a certain figure must come before the Council and must obtain the express sanction of the House.

“I would only mention, Mr. President, one other point. There are two chapters in this Bill providing for compulsory labour and *kudimaramat*. I have heard with great pleasure and with great interest to the speech of my hon. Friend the Labour Commissioner, for whose words I have always the greatest regard. But let me remind this House that these provisions are only fit for a savage people governed by a primitive Government. It is no doubt, Sir, that we had that law in the days of mutiny, I think, in the year 1858. But in those days of mutiny if such a large step was found necessary, one can understand. But to say that when over half a century has elapsed that forced labour should be allowed in a Statute, during days when there has been repeal of the Act enjoining compulsory labour which is being contested as unworthy, is one that we cannot understand. We find that some provisions have been made that if people do not go on their own accord the Government can engage labour and then recover the costs incurred from them. That presupposes, Sir, a sort of coercive labour and is not worthy of being on the Statute book. We are already being criticised as a

[Sir K. Venkatarreddi Nayudu] [7th February 1924]

nation of fools and let that no longer stand staring us in our face: let it not disgrace our Statute book with the inclusion of such a provision and let us treat labour as equal to any other respectable profession of our society. In these days, Sir, when in all civilized countries we have labour dictating to us their own terms and claiming to come in contact with everybody and asserting for work whatever hours they like, it is doubtless incumbent that we should also recognize their position. The only occasion when labour can be coerced is probably during times of war. I do not for one moment suppose that the circumstances under which labour ought to be coerced under the provisions of this Bill can at all be placed on a par with the conditions existing at war time; and that too, Sir, in the days when the Labour Government is in power! I can understand such a thing when a bureaucratic power is at its height. But now when more than half of our Government is composed of ourselves I cannot understand such a provision being incorporated in a Bill. I can understand this thing when the die-hards were in power in the days when the Liberals, who were more or less Conservatives or at least half Conservative, being enacted; but I cannot conceive how under the regime of the Labour Government such a provision is being introduced."

Rao Bahadur C. NATESA MUDALIYAR :—"Sir, Mr. President, I thank the Members of the various parties of this House for having decided not to take this measure as a party one. Ever since I entered this Council whenever an opportunity occurred I never failed to mention that the prosperity of our agricultural province depended upon the improvement of our irrigation works. On the very first day when the hon. the Law Member took his seat, the first request that I made of him was to take up at least one irrigation project. He is a democrat and he has often expressed that having come into a democratic institution he cannot but accept the democratic measures. He has come forward now with a democratic measure. Sir, even though I opposed the Bill introduced by the late lamented Sir K. Srinivasa Ayyangar, even then I admitted the necessity for an irrigation legislation to extend our irrigation works for the benefit of our agriculturists, to develop our irrigation scheme, to prevent our magnificent rivers wasting waters into the seas, to make our irrigation works on which large capital has been sunk to pay a return and not to allow the zamindars or landholders or ryots to go scot-free even though the number of cusecs of water supplied to their fields have increased enormously, due to large improvement of existing irrigation works and to construction of new works, and to prevent wastage of water by the ryots by regulating it and diverting the excess to lands that go uncultivated. I learn that only 7 million acres of land in our Presidency are cultivable to-day. Sir, while admitting the paramount power of the Government for collecting, retaining and distributing water for public good, the rights of the zamindars and landholders or ryots should be safeguarded—the rights and the privileges they earned either by grants or by prescription. There is a point of economy in these irrigation legislations. They legally mark out the amount of control that the executive officers can exercise and the extent of privilege the ryots possess. In Northern India where irrigation legislations exist I learn that irrigation litigations are almost unknown. Even in the Bombay Presidency I learn that irrigation litigations are becoming infrequent.

"Sir, this Bill contains certain defects. Under clause 13, for the purpose of preparing a record, an officer delegated can enter into any land, bore and

7th February 1924] [Mr. C. Natesa Mudaliyar]

do also such other things as are necessary. Why not this be done after due notice to the proprietor of the land or his accredited agent? Right through the Bill the order of the District Collector is final: why not the decision of a District Judge within the jurisdiction? There is also an attempt made to revive the ancient *kudimaramat* system. I thank the hon. the Law Member for having expressed the sentiment that he makes no distinction between a wealthy man and a labourer. I welcome that idea. But *kudimaramat* worked well under the old village form of government which was almost a republic. But now the Government want the control of water sources. Where is the logic in Government asking the villagers to come to its rescue? Of course we are all pleased to hear the burning appeal made by the hon. Member Mr. Paddison. Of course there is a necessity. But the people should be given more privileges for them to offer their services.

"In the *kudimaramat* system, supposing a village munsif belongs to one of the political parties or village cliques, he can use his power to any extent to trouble his opponents. Lastly the penalty for illegal irrigation is thirty times the cess. Any innocent landholder may suffer for the unscrupulous action of any lowly-paid subordinate of the engineering department or a vindictive neighbour. He will have to pay, instead of Rs. 1,000, Rupees 27,000. My Friend, Mr. Biswanath Das, expressed that the rights of the zamindars' ryots are not safeguarded.

"I hope, Sir, that the Select Committee will look into all these things and present the Bill on the occasion of its third reading in a more acceptable form."

Mr. S. MUTTAYYA MUDALIYAR:—"Mr. President, Sir, in beginning to speak on this Bill I feel greatly constrained by the time-limit which you have chosen to put upon me and I do not propose to deal with all the details, but I propose to make certain observations which I think are absolutely necessary before I can give my vote. The hon. the Law Member in opening his speech yesterday candidly confessed that the provisions as regards the ryotwari lands in the Bill are practically the same as they were when the Bill was introduced by Sir K. Srinivasa Ayyangar. But he said that the Bill had been before the public for over twelve months and as regards the ryotwari landholders that no criticisms came up and no objections were made. Let us examine the statement and see how far it is correct and justifiable.

"The Bill came to the public notice in December 1922 and in January 1923 it was introduced into the Council, rejected so that the Bill was entirely off the public mind. Then we were told that a Committee was formed for the purpose of examining the provisions of the Bill and framing a new measure; it was a very strong Committee that was appointed consisting of representatives of the ryotwari landholders and many recommendations were made and people thought that those recommendations would be accepted by the Government before the Bill was taken up for final drafting. But according to the candid confession of the hon. the Law Member none of the suggestions made as regards the ryotwari landholders have been incorporated in the Bill. Certainly I confess I have not been able to go in detail into the report and find out how far they have been accepted or not. But I take the hon. the Law Member at his word that so far as the ryotwari landholders are concerned the Bill is practically the same as before. The circumstances which

[Mr. S. Muttayya Mudaliyar] [7th February 1924]

compelled this House to reject the Bill originally are now existing so far as the ryotwari landholders are concerned. If according to the hon. the Law Member there was no change introduced into the present Bill, what is there, I ask to alter the vote of the ryotwari landholders in this Council when they have by a large majority thrown out even the introduction of the Bill in 1923. I submit there is absolutely no reason.

“There are one or two vital points which I may mention, in my opinion, go to the very root of the rights of the ryotwari landholders and I shall refer to them. As my hon. Friend, Sir K. Venkata Reddi has already pointed out, the Bill enacts that every land which is not estate land is Government land. I should say that this definition of Government land is not only a declaration of right but it is something worse and capable of bringing in worse wrongs than the declaration of rights can do. But the hon. the Law Member in reply to Sir K. Venkata Reddi's criticism on the matter said that it was not a new definition but that it was copied from the definition of Government land given in the Survey and the Boundaries Act. But this was the answer which was given by Sir K. Srinivasa Ayyangar and if it was found necessary then to reject it I do not see how it can be voted for now; and if the definition was to be found in one Act there is no reason why it should be continued in the other also.

“It is a very important question whether land belongs to the Government or to the mirasidars. I may say for the information of the House that judicial decisions have all been in favour of the mirasidars and you may see from half a dozen passages in Huddleston's Mirasi papers that under Hindu Law it has been recognized that the Sovereign has no right to the land and that the mirasidar has that right. Assuming for purposes of argument that Government land does not mean land belonging to Government, what follows? The mirasidar should have the right over the land. A registered landholder is a person in whose name Government land is registered. There is nothing to show that he is the owner of the land. As regards the land that is not registered in anybody's name as house-sites who is the owner? I submit that this is a forfeiture clause and a dangerous provision which ought not to be allowed. The Bill was placed before this House 17 days ago and as was pointed out it was not published in the vernacular languages to enable the non-English knowing people to understand it. How are they to raise their objections and criticise the Bill? Where do you give them the opportunity of putting forward objections? There is absolutely no time. On this single ground I will ask you to throw out the Bill. It is a forfeiture Bill.”

The hon. Mr. C. P. RAMASWAMI AYYAR :—“Mr. President, Sir, sincerely speaking it is not my desire to interrupt any speech or to put an end to the discussion. But I take it that the general sense of the House is that they will reserve further consideration of the specific objections which each individual hon. Member may have to the succeeding stages, viz., the Select Committee and the subsequent consideration by the full House. Yet, I would be wanting in courtesy to hon. Members who have benefited me with their remarks if I do not offer a few observations on some of the points made by them. One of the main points of attack elaborated by my hon. Friend Sir K. Venkatarreddi, following in this respect the remarks of

7th February 1924] [Mr. C. P. Ramaswami Ayyar]

the hon. Member for the University, was as to the implications of the words Government land. I may assure hon. Members of this House that it is not the intention of the Government nor was it the object of the framers of this legislation by a side wind as it were to set at rest long-continued controversies and differences of opinion. I modestly followed the example of the other Act passed not very long ago by this august assembly. Turning to Madras Act VIII of 1923, what do we find? It is an Act relating to survey of lands. There Government land means any land not forming an estate or any portion thereof. When that Act was on the legislative anvil and when it passed through its various stages in this House this suspicion was not entertained and this charge was not levelled. If I had used a much more cumbrous and long-winded expression like 'land not forming or included in the estate' wherever 'Government land' was used, I do not think it would have opened us to so much criticism and permitted hon. Members to make remarks of the nature that has been made to-day. I may assure hon. Members that it was not the intention of those who framed this measure to set at rest all controversies on this matter and to lay down in a cowardly way, as by a side wind as I have already stated, that there is a proprietorship under this Act where it has not been existing before.

"I will now turn to the hon. Member for the University whom, notwithstanding that he is not in his place, you will accord me permission in absentia to congratulate upon his advocacy of what I venture to say is a losing cause, that is, an attempt to have this measure thrown out even at its very inception. He stated that no attempt has been made to define riparian rights as existing between ryotwari proprietors and Government. Well, whatever rights there may be, the extent and connotation of them are open to much discussion. I for one am perfectly prepared to have a discussion on this matter in the Select Committee. I may add that this question of riparian rights did not actively come before the Select Committee though it was alluded to on one occasion and left for further consideration and examination, but nothing happened. I am perfectly prepared to have that matter carefully examined.

"Then another hon. Member said that lawyer though I was I had taken particular care to exclude from the jurisdiction of courts every important matter reserving to them certain trivial and unimportant details. I venture to point out as I said yesterday that the objects which animated those who produced this draft were twofold, firstly to preserve by Clause 90 the jurisdiction of courts generally speaking, and secondly to restrict the jurisdiction of courts to cases and instances where they may function most appropriately. It may be that in one instance or in another this hon. House may come to a different conclusion. I for one will be ready to accept any such Amendment. But it will be remembered that there are matters of detail of inspection on the spot of even important things in which local officers, detested though they have been in these debates, would be more usefully functioning than the courts. Taking Clause 90, I pointed out that the general purport of the measure was to preserve the jurisdiction of the courts. I say wherever the jurisdiction of courts was not postulated, there was room given under Clause 101 for the scrutiny of the legislature being brought to bear upon by the rules. Turning to Clause 101, sub-clause (f) one will find that the declaration of rates of water-cess is included. That is not a kind of matter in which the court can function usefully. Those rules strictly pertain to the legislature. It is therefore provided that

[Mr. C. P. Ramaswami Ayyar] [7th February 1924]

rules relating to rates of water-cess should be placed before the House. It was stated that it is only provided that these rules should be laid on the Table of the House for two months while the House is in session, and it is not provided as is sometimes stated, notably in the Government of India Act, that the active consent of the legislature is necessary before those rules can have operation or validity. Now I take it that the object of the rule prescribing the placing of these matters on the Table of the House is to evoke a Resolution, to stimulate debate and to inaugurate controversy so that we may have the advantage and the benefit of having the Legislative Council's opinion on this matter. It may be that upon some of these matters the Select Committee or the House may say that it is of such paramount importance that affirmative sanction of the legislature is necessary. There may be other matters in which the House may consider that particular things must be brought to the notice of the House and that we should abide by the decision of the House. Now my hon. Friend Mr. A. S. Krishna Rao, in the course of a very very vigorous, and if I may say so, very constructive attack upon this Bill referred to the unique character of the declaration of Clause 6. He said that nowhere has the Government's rights been admitted. Let me turn to the Burma Act II of 1905. The preamble says :

'Whereas, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water, and to assume the control and undertake in whole or in part the maintenance of any irrigation work upon such terms, if any, as to compensation as it deems just, whenever it appears to be necessary in the public interest to do so.' "

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" May I know, Sir, if the preamble is treated as part of the Act."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" It is not part of the Act for certain purposes, but it is the guiding factor of the Act; it is the key, the scope and intent of the legislation."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" As the hon. Member has referred to the statement made by me, let me state that the preamble is not a part of the Act. There is nothing in the present declaration to show that there is an undertaking on the part of the Government in whole or in part to show that it is upon such terms and so forth."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I may mention, Mr. President, that the object of Clause 6 as provided is to do more but not less than this. It is a resumé of the powers and functions detailed in the Bill."

4-30 p.m. " My hon. and learned Friend wants me to omit clause 6 and have all the other clauses granting the powers and laying down the obligations. If he can give me a formula by way of concentration and of gathering together all the root ideas in the succeeding clauses, a formula which will compress in one or two succinct sentences the meaning and the object of the Government, no one would be more grateful to him than myself."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I hope to be able to satisfy the hon. Member and give him a formula."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" I am very relieved."

" Then my hon. Friend, the Member from Chittoor, who again is absent from his place, referred to the obligations of the Government with regard to the keeping in proper repair of irrigation works. It is a moot point how far

7th February 1924] [Mr. C. P. Ramaswami Ayyar]

the Government are under any obligation in ryotwari tracts in regard to the repair of irrigation works. But the question is one which may be investigated and carefully looked into later on. There are three very important points to which I must invite special notice. There are points which, I assure the hon. House, will receive the most careful and anxious consideration of the Select Committee. One of them is the provision—to which reference has already been made—that in cases where an irrigation officer on his own initiative constructs a new water course, the cost of it may be recovered from the owners and occupiers of land. The other is with regard to the land registered as dry. The third is about compensation. These are matters which, I assure the House, will be carefully kept in view. Speaking on one of those matters, namely, that relating to Clause 56, this House will not find that I am going to block any amendments or will be unsympathetic. I do not propose at this stage to say more than this. I ask the House to take my undertaking in the spirit in which it is given. I hope that the House will be satisfied that the object is not the sinister one of rushing the legislation. I hope they will take me in the spirit in which I have approached them, and I hope they will allow the First Reading of the Bill. I trust that it will be possible to say at the end of a very few months that in this Presidency the long-standing reproach of the want of an irrigation law has been eradicated and that we can go on with projects which will bring about an era which is dear to the heart of each one in this House and outside it." (Hear, hear and cheers.)

Mr. V. C. VELLINGIRI GOUNDER :—"With the permission of the President, may I say a few words?"

Mr. C. V. VENKATARAMANA AYYANGAR :—"Many of us want to speak on this Bill and in the absence of a motion for closure I think we may be permitted to speak."

The hon. Sir CHARLES TODHUNTER :—"Sir, I move that the question be now put."

Mr. C. V. VENKATARAMANA AYYANGAR :—"The hon. the Leader of the House got up and moved for closure when I was on my legs and was saying that in the absence of a motion for closure we might be permitted to speak."

The hon. the PRESIDENT :—"I have not called upon any hon. Member to speak except the hon. Sir Charles Todhunter who has moved the closure."

The motion for closure was put and the House divided as follows :—

Ayes.

- | | |
|---|--|
| 1. The hon. Sir Charles Todhunter. | 15. Mr. H. Tireman. |
| 2. " Sir Arthur Knapp. | 16. " C. R. T. Congreve. |
| 3. " Mr. C. P. Ramaswami Ayyar. | 17. " J. A. Davis. |
| 4. " the Raja of Kollengode. | 18. " A. J. Leech. |
| 5. " the Raja of Panagal. | 19. " C. Nicholson. |
| 6. " Rao Bahadur Sir A. P. Patro. | 20. " T. R. Venkatarama Sastriyar. |
| 7. " Diwan Bahadur T. N. Sivagnanam Pillai. | 21. " P. W. Partridge. |
| 8. Mr. R. W. Davies. | 22. " Ari Gowder. |
| 9. " P. Hawkins. | 23. " S. Arpudaswami Udayar. |
| 10. " E. W. Legh. | 24. " P. K. S. A. Arumuga Nadar. |
| 11. " C. Madhavan Nayar. | 25. " A. V. Bhanoji Rao. |
| 12. Dr. John Mathai. | 26. " N. Devendrudu. |
| 13. Mr. P. L. Moore. | 27. Diwan Bahadur Sir P. Tyagaraya Chettiyyar. |
| 14. " G. F. Paddison. | 28. Rao Sahib S. Ellappa Chettiyyar. |

[7th February 1924]

Ayes—cont.

- | | |
|---|--|
| 29. Rao Bahadur P. C. Ethirajulu Nayudu. | 44. Rao Bahadur C. Venkataranga Reddi. |
| 30. " Cruz Fernandez. | 45. Mr. R. Veerian. |
| 31. Rao Sahib P. V. Gopalan. | 46. " Abbas Ali Khan. |
| 32. Mr. L. C. Guruswami. | 47. " G. Abdulla Ghatala Sahib. |
| 33. Rao Bahadur K. Krishnaswami Nayudu. | 48. " Abdul Hye Sahib. |
| 34. Mr. V. Madhava Raja. | 49. " V. Hamid Sultan Marakkayar. |
| 35. Hony.-Lieut. Madurai. | 50. Khan Bahadur P. Khalif-ul-lah Sahib. |
| 36. Mr. K. S. Ponnuswami Pillai. | 51. Mr. T. M. Moidu Sahib. |
| 37. " P. S. Rajappa. | 52. " T. N. Bava Ravuttar Muhammad Sahib. |
| 38. Rao Bahadur P. Raman. | 53. Khan Sahib Saiyid Diwan Abdul Razaq Sahib. |
| 39. Mr. R. Srinivasan. | 54. Mr. K. Uppi Sahib. |
| 40. " P. V. S. Sundaramurti. | 55. " Janab Muhammad Yahya Ali Sahib. |
| 41. Rao Sahib T. C. Tangavelu Pillai. | |
| 42. Rao Bahadur O. Tanikachala Chettiyar. | |
| 43. Mr. K. Venkatachala Padayachi. | |

Noes.

- | | |
|--------------------------------------|--|
| 1. Mr. B. Mahabala Hegde. | 21. Mr. P. Siva Rao. |
| 2. The Zamindar of Kurupam. | 22. " A. Chidambara Nadar. |
| 3. Mr. P. N. Marthandam Pillai. | 23. " K. Koti Reddi. |
| 4. " B. Muniswami Nayudu. | 24. " P. Anjaneyulu. |
| 5. " C. Muttayya Mudaliyar. | 25. Sriman Biswanath Das Mahasayo. |
| 6. " P. C. Muttu Chettiyar. | 26. Mr. S. Muttayya Mudaliyar. |
| 7. " C. Ponnuswami Nayudu. | 27. Dr. P. Subbarayan. |
| 8. " K. Prabhakaran Tampan. | 28. Rai Bahadur T. M. Narasimhaacharu. |
| 9. " G. Premayya. | 29. Mr. P. Peddiraju. |
| 10. " K. Raghuchandra Bellala. | 30. " V. C. Vellingiri Gounder. |
| 11. " P. T. Rajan. | 31. " A. Ranganatha Mudaliyar. |
| 12. " B. Ramachandra Reddi. | 32. " J. A. Saldanha. |
| 13. " J. D. Samuel. | 33. Sriman Sasibhushana Rath Mahasayo. |
| 14. " K. Sarabha Reddi. | 34. Mr. M. Seetayya. |
| 15. " K. Sarvarayudu. | 35. " M. R. Seturatnam Ayyar. |
| 16. " K. Sitarama Reddi. | 36. " R. Srinivasa Ayyangar. |
| 17. " Chavadi K. Subrahmanya Pillai. | 37. " C. V. Venkataramana Ayyangar. |
| 18. Rao Bahadur C. Natesa Mudaliyar. | 38. The Raja of Ramnad. |
| 19. " A. S. Krishna Rao Pantulu. | 39. Mr. M. Ratnaswami. |
| 20. " C. V. S. Narasimha Raju. | 40. Diwan Bahadur M. Krishnan Nayar. |

Ayes : 55. Noes : 40.

The closure was carried.

4-45 p.m. The motion that the Madras Irrigation Bill be read in Council was then put and carried.

A poll was demanded and the House divided as follows :—

Ayes.

- | | |
|---|---|
| 1. The hon. Sir Charles Todhunter. | 19. Mr. C. Nicholson. |
| 2. " Sir Arthur Knapp. | 20. " T. R. Venkatarama Sastriyar. |
| 3. " Mr. C. P. Ramaswami Ayyar. | 21. " P. W. Partridge. |
| 4. " the Raja of Kollengode. | 22. " Ari Gowder. |
| 5. " Rao Bahadur Sir A. P. Patro. | 23. " S. Arpudaswami Udayar. |
| 6. " Diwan Bahadur T. N. Sivagnanam Pillai. | 24. " P. K. S. A. Arumuga Nadar. |
| 7. Mr. R. W. Davies. | 25. " A. V. Bhanoji Rao. |
| 8. " P. Hawkins. | 26. Diwan Bahadur Sir P. Tyagaraya Chettiyar. |
| 9. " E. W. Legh. | 27. Rao Sahib S. Ellappa Chettiyar. |
| 10. " C. Madhavan Nayar. | 28. Rao Bahadur P. C. Ethirajulu Nayudu. |
| 11. Dr. John Mathai. | 29. " Cruz Fernandez. |
| 12. Mr. P. L. Moore. | 30. Rao Sahib P. V. Gopalan. |
| 13. " G. F. Paddison. | 31. Mr. L. C. Guruswami. |
| 14. " H. Tireman. | 32. " B. Mahabala Hegde. |
| 15. The hon. the Raja of Panagal. | 33. Rao Bahadur K. Krishnaswami Nayudu. |
| 16. Mr. C. R. T. Congreve. | 34. Mr. V. Madhava Raja. |
| 17. " J. A. Davis. | 35. Hony.-Lieut. Madurai. |
| 18. " A. J. Leech. | 36. Mr. P. N. Marthandam Pillai. |

7th February 1924]

Ayes—cont.

- | | |
|--|--|
| 37. Mr. B. Muniswami Nayudu. | 61. Mr. R. Srinivasa Ayyangar. |
| 38. „ C. Muttayya Mudaliyar. | 62. „ C. V. Venkataramana Ayyangar. |
| 39. „ P. C. Muttu Chettiyar. | 63. Rai Bahadur Sir K. Venkatarreddi Nayudu. |
| 40. „ K. S. Ponnuswami Pillai. | 64. Mr. P. S. Sundaramurthi. |
| 41. „ G. Premayya. | 65. Rao Sahib T. C. Tangavelu Pillai. |
| 42. „ K. Raghuchandra Bellala. | 66. Rao Bahadur O. Tanikachala Chettiyar. |
| 43. „ P. S. Rajappa. | 67. Mr. K. Venkatachala Padayachi. |
| 44. „ B. Ramachandra Reddi. | 68. Rao Bahadur C. Venkataranga Reddi. |
| 45. Rao Bahadur P. Raman. | 69. Mr. M. Ratnaswami. |
| 46. Mr. A. Ramaswami Mudaliyar. | 70. Diwan Bahadur M. Krishnan Nayar. |
| 47. „ J. D. Samuel. | 71. Mr. W. Vijiaraghava Mudaliyar. |
| 48. „ K. Sarabha Reddi. | 72. „ R. Veerian. |
| 49. „ K. Sitarama Reddi. | 73. „ Abbas Ali Khan. |
| 50. „ R. Srinivasan. | 74. „ Haji Abdulla Sahib. |
| 51. Rao Bahadur C. Natesa Mudaliyar. | 75. „ Ghatala Sahib. |
| 52. Mr. T. A. Ramalinga Chettiyar. | 76. „ Abdul Hye Sahib. |
| 53. Rao Bahadur A. S. Krishna Rao Pantulu. | 77. „ Hamid Sultan Marakkayar. |
| 54. „ C. V. S. Narasimha Raju. | 78. „ Khalifulla Sahib. |
| 55. Mr. P. Siva Rao. | 79. „ Moidu Sahib. |
| 56. „ K. Koti Reddi. | 80. „ Muhammad Sahib. |
| 57. Rai Bahadur I. M. Narasimhaacharu. | 81. Khan Sahib Saiyid Diwan Abdul Razaq Sahib. |
| 58. Mr. A. Ranganatha Mudaliyar. | 82. Mr. K. Uppi Sahib. |
| 59. „ V. C. Vellingiri Gounder. | 83. „ Yahya Ali Sahib. |
| 60. „ J. A. Saldanha. | |

Noes.

- | | |
|-------------------------------------|--|
| 1. Mr. K. Prabhakaran Tampan. | 8. Dr. P. Subbarayan. |
| 2. „ P. T. Rajan. | 9. Mr. P. Peddiraju. |
| 3. „ C. Ponnuswami Nayudu. | 10. „ M. Seetayya. |
| 4. „ Chavadi K. Subrahmanya Pillai. | 11. „ R. Seturatnam Ayyar. |
| 5. „ P. Sagaram. | 12. Sriman Sasibhushana Rath Mahasayo. |
| 6. „ A. Chidambara Nadar. | 13. Mr. K. Sarvarayadu. |
| 7. „ S. Muttayya Mudaliyar. | |

Neutral.

- | | |
|-----------------------------|-----------------------------------|
| 1. Mr. N. Devendrudu. | 4. Sriman Biswanath Das Mahasayo. |
| 2. The Zamindar of Kurupam. | 5. The Raja of Ramnad. |
| 3. Mr. P. Anjaneyulu. | 6. Mr. G. Rameswara Rao. |

Ayes : 83. Noes : 13. Neutral : 6.

The motion was carried.

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, I move that the Bill be referred to a Select Committee.”

The hon. the RAJA OF KOLLENGODE :—“ I second it.”

The motion was put and carried.

The SECRETARY then read the title of the Bill.

The hon. Mr. C. P. RAMASWAMI AYYAR :—“ I move that a committee consisting of the following Members be formed for the consideration of the Bill :—

Select Committee on the Irrigation Bill.

- | | |
|--|--|
| 1. The Advocate-General. | 11. Mr. A. Ramaswami Mudaliyar. |
| 3. Mr. T. B. Venkatarama Sastri. | 12. „ K. Sitarama Reddi. |
| 4. „ P. Hawkins. | 13. „ P. T. Rajan. |
| 2. „ E. W. Legh. | 14. Rao Bahadur P. C. Ethirajulu Nayudu. |
| 5. The Raja of Ramnad. | 15. Sir K. Venkatarreddi Nayudu. |
| 6. Dr. P. Subbarayan. | 16. Rao Bahadur C. V. S. Narasimha Raju. |
| 7. The Raja of Chellapalli. | 17. Diwan Bahadur M. Krishnan Nayar. |
| 8. The Raja of Kurupam. | 18. Rao Bahadur T. A. Ramalinga Chettiyar. |
| 9. Rao Bahadur O. Tanikachala Chettiyar. | 19. Mr. C. V. Venkataramana Ayyangar. |
| 10. Mr. B. Muniswami Nayudu. | 20. Rao Bahadur A. S. Krishna Rao Pantulu. |

[7th February 1924.]

Select Committee on the Irrigation Bill—cont.

- | | |
|---------------------------------------|--|
| 21. Mr. R. Srinivasa Ayyangar. | 28. Rao Sahib P. V. Gopalan. |
| 22. „ A. Ranganatha Mudaliyar. | 29. Mr. P. Siva Rao. |
| 23. Khan Bahadur P. Khalitulla Sahib. | 30. Rai Bahadur T. M. Narasimhacharlu. |
| 24. Mr. Yahya Ali Sahib. | 31. Mr. P. Peddiraju. |
| 25. „ V. Madhava Raja. | 32. „ A. V. Bhanoji Rao. |
| 26. „ B. Mahabala Hegde. | 33. Sriman Biswanath Das Mahasayo. |
| 27. „ R. Srinivasan. | 34. The Mover. |

The hon. the RAJA OF KOLLENGODE :—“ I second it.”

The motion was put and carried.

The hon. the PRESIDENT :—“ I appoint the hon. the Law Member as Chairman of the Committee.

“ It will now be open to hon. Members to take up the remaining items on the agenda paper to-day, namely, the adjourned motion of Mr. Peddiraju. Is it the desire of the hon. Members to continue the discussion on that motion or shall it be taken up to-morrow ? ”

The sense of the House was that the motion might be taken up the next day.

The House then adjourned at 4-52 p.m. to meet again at 11 a.m. the next day.



R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.

APPENDIX III.

[Vide page 292 supra.]

(1)

*Proceedings of the Twelfth Meeting of the Finance Committee,
1923-24, dated 24th January 1924.*

PRESENT:

The hon. Sir CHARLES TODHUNTER, K.C.S.I., I.C.S. (Chairman).

M.R.Ry. A. RANGANATHA MUDALIYAR Avargal, M.L.C.

Rai Bahadur T. M. NARASIMHACHARLU Garu, M.L.C.

„ Sir K. VENKATAREDDI NAYUDU, Kt., M.L.C.

JANAB MUHAMMAD YAHYA ALI SAHIB Bahadur, M.L.C.

Dr. P. SUBBARAYAN, M.L.C.

R. W. DAVIES, Esq., I.C.S., M.L.C.

1 The first item taken up for consideration was the Part II scheme relative to the appointment of district maintenance officers.

Annual recurring cost RS. 1,12,450

Messrs. N. Maemichael and P. T. Srinivasa Achari were present.

The proposal was placed in class III.